

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1296 of 2005

Between:

Inagala Hari Babu, S/o. Subba Rao,
R/o. Ethamukkala Post, Kothapatnam Mandal, Prakasam District.

..... PETITIONER

AND

- 1 The Revenue Divisional Officer, Ongole, Prakasam District.
- 2 The Joint Collector, Ongole, Prakasam District.
- 3 The District Collector, Ongole, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more in the nature of Writ of Mandamus, declaring the action of the 3rd respondent in not passing the orders in the stay petition filed by the petitioner along with revision against the orders of the 2nd respondent as arbitrary, illegal and violation of principles of natural justice and consequently suspend the impugned orders passed by Revenue Divisional Officer, Ongole Vide proceedings vide Rc.No.. 1262/2004, dated 24-9-2004 pending disposal of the revision before the 3rd respondent in the interest of justice

Counsel for the Petitioner:MR.P.NAGENDRA REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

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ORAL ORDER:

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The petitioner is functioning as a Fair Price Shop Dealer of Ethamukkala village of Kothapatnam Mandal, Prakasam District. The 1st respondent-Revenue Divisional Officer, Ongole, suspended the authorization of the petitioner through proceedings dated 24.9.2004. Aggrieved thereby, the petitioner preferred an appeal before the 2nd respondent under Clause 20 of the A.P. State Public Distribution System Control Order, 2001 (for short 'the Control Order'). He also filed an application for interim orders.

When the 2nd respondent did not pass any orders thereon, the petitioner filed W.P.No.19110 of 2004. Initially, an interim order was granted on 14.10.2004 suspending the order dated 24.9.2004 passed by the 1st respondent. Thereafter, the said writ petition was disposed of on 4.11.2004 directing that the 2nd respondent shall dispose of the appeal itself and till such time, the interim order dated 14.10.2004 shall be in force. The 2nd respondent ultimately passed an order on 18.1.2005 rejecting the appeal of the petitioner. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

From the narration of facts in the preceding paragraphs, it is evident that this court suspended the order dated 24.9.2004 passed by the 1st respondent, till the disposal of the appeal by the 2nd respondent. While disposing of the appeal, the 2nd respondent made certain observations. He took the view that the suspension of a dealership is an interim punishment.

It only shows lack of comprehension on basic principles on the part of the 2nd respondent. There is nothing like an interim punishment in law. Any punishment can be only as a substantive measure and it shall precede an enquiry. In fact, Clause 5 (4) of the Control Order contemplates imposition of punishment of suspension after conducting an enquiry. Secondly, the appellate authority directed the 1st respondent to conclude the hearing of the entire proceedings within two weeks from the date of receipt of its order. He proceeded to add that till such time, the suspension order dated 24.9.2004, shall be in force.

It discloses either semblance of sadistic pleasure or expression of vindictiveness. The same cannot be said to be a mature and fair exercise of administrative powers.

The writ petition is allowed. It is directed that the petitioner shall be entitled to continue as a dealer till the 1st respondent passes final orders in the proceedings initiated against the petitioner. No order as to costs.

1.2.2005

Note:

CC in three days.

BO CVM

To,

- 1 The Revenue Divisional Officer, Ongole, Prakasam District.
- 2 The Joint Collector, Ongole, Prakasam District.
- 3 The District Collector, Ongole, Prakasam District.
4. 2 CCs to G.P. for Civil Supplies, High Court buildings, Hyderabad (OUT).
5. 2 CD copies.